BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 80-251-E - ORDER NO. 85-37

January 18, 1985

IN RE: Small Power Production and Cogeneration Facilities - Implementation of Section 210 of the Public Utility Regulatory Policies Act of 1978.	)	ORDER GRANTING INTERIM RELIEF

On December 17, 1984, a hearing was commenced in this Docket to address the issues previously agreed to. At the conclusion of the hearing, counsel for Aquenergy Systems, Inc. (Aquenergy), one of the Intervenors herein, moved the Commission for an Order granting immediate relief from the "30 minute increment rule" of Duke Power Company (Duke Power) in Duke Power's proposed avoided cost rate in its Purchased Power rate schedule (Schedule PP).

The 30 minute increment rule is outlined in Duke Power's proposed schedule PP as follows:

> DETERMINATION OF CAPACITY CREDIT
>
> Capacity credit will be based on the maximum integrated thirty-minute demand which is continuously supplied to the Company during the on-peak periods of the months of June through September and December through March, and will be applied to the customer's bill in the appropriate month.

The 30 minute increment rule essentially provides that if a qualifying facility ("QF") is off-line for any 30 minute period during on-peak hours (7 a.m. to 11 p.m.) of the eight peak months, Duke Power will make no capacity credit payment to the

QF. There are 352 on-peak hours in a typical month (16 peak hours per day x 22 weekdays). Under Duke Power's policy, if a QF operated continuously for 351 hours but went off-line during the 352nd hour, it would be denied <u>any</u> capacity credit payment. The rule thus requires a QF to operate for more than 99 percent of the time. It was alleged by the Intervenors that this was a requirement which no hydro plant in the country, including Duke's own plants, can meet consistently.

As explained at the hearing by Ralph H. Walker, Jr., Aquenergy's President, the Company has received only one capacity credit payment during the two years of operation despite the fact that its Piedmont Project on the Saluda River has operated for more than 90 percent of the time and its other three projects have operated at similarly high levels. Aquenergy asserts it has provided a reliable source of power to Duke Power for which it has received only one capacity credit.

The financial impact of the rule on Aquenergy according to Mr. Walker, has been devastating. The Company has lost, and continues to lose, $300-$400 per weekday in capacity payments. This loss imposes a tremendous burden on a young company like Aquenergy. Rather than encouraging small power producers as PURPA requires, it is alleged that Duke Power's policy threatens their very existence in South Carolina.

The only witness advocating the continued practice of the 30 minute increment rule was Mr. Donald H. Denton, Jr. of Duke

Power. Mr. Denton felt the Company's policy with respect to the payment of capacity credits emphasizes the importance that Duke Power places on the reliability and availability of the QF's. However, no other witness supported the rule. Mr. Wayne King of Carolina Power and Light Company (CP&L) agreed that the rule was unfair and discourages small power production in this State. It was also pointed out that Duke Power's PP schedule in North Carolina does not contain the 30 minute increment rule.

The Commission normally is not asked to issue an interim order nor does it often deem such appropriate. The extraordinary circumstances brought out in this proceeding, however, cause us to believe that fairness and justice require this Commission to grant some interim relief pending the final disposition of all the issues raised during the proceeding. The issuance of this interim relief does not permanently bind the Commission to the findings herein. This issue will be discussed again in the final Order and a final disposition will be made at that time. Any findings herein have been deemed appropriate for the granting of interim relief only.

With this caveat in mind, the Commission finds the following to be appropriate in the granting of interim relief:

Duke Power's proposed avoided cost rates include $6.07 per KW per month for the eight on-peak months avoided capacity cost and $0.0277 per KWH for all on-peak energy and $0.0208 per KWH for all off-peak energy. The Commission finds appropriate as an interim rate, to remain in effect until a final Order establishes permanent rates under this Docket, the proposed avoided costs, except for the form of capacity credit. The Commission is of the opinion that Duke Power's capacity credit for rate schedule PP should be based on on-peak energy delivered to the Company. Based on the Company's proposed $6.07 per KW, the appropriate capacity credit would be $0.0175 per KWH. [$6.07 x 8 months on-peak = $48.56; 16 on-peak hrs/day x 5 days/wk. = 80 on-peak hrs/wk.; 52 weeks/year x 80 on-peak hrs. = 4160 on-peak hrs./yr. Since only eight months of twelve are on-peak, 8/12 x 4160 = 2773 on-peak hrs. available for capacity credit. Therefore, $48.56 ÷ 2773 = $0.0175 per KWH.] The Commission finds this to be appropriate for interim relief.

The Commission finds that such interim relief should be available to cogenerators and small power producers. The Commission is of the opinion, and so finds, that any cogenerator and/or small power producer presently on Duke Power's system being served on rate schedule PG will be allowed to convert its present contract to the Duke Power rate schedule PP if it would be beneficial to the cogenerator or small power producer to enhance and encourage these systems to serve in South Carolina.

IT IS THEREFORE ORDERED:

1. That on an interim basis only, the thirty minute increment rule shall be eliminated from Duke Power Company's proposed schedule PP in its determination of a capacity credit.

2. That on an interim basis only, the capacity credit for proposed rate schedule PP shall be based on on-peak energy delivered to the Company, and that an appropriate interim rate, based on Duke Power's figures, shall be $0.0175 per KWH.

3. That such interim relief shall be available to any cogenerator or small power producer on the Duke Power system presently being served on the Company's rate schedule PG which could benefit from switching to the interim PP schedule.

4. That such cogenerator or small power producer mentioned in Paragraph (3) shall be allowed to convert its present contract to the proposed Duke Power rate schedule PP on an interim basis.

5. That the interim relief granted herein shall be effective for Power Purchase statements issued on or after the date of this Order.

6. That Duke Power Company shall file with the Commission an interim rate schedule PP as approved herein, within ten (10) days of the date of this Order.

7. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Henry G. Yonce

Acting CHAIRMAN

ATTEST:

James H. Still

Executive Director

(SEAL)